HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION NO. 3281 OF 2007

27.02.2007

Between:
Paderla Venkata Subba Reddy and another.

**..... PETITIONER**

AND

1 The District Registrar of Stamps and Registration, Nellore and others.

**RESPONDENTS.**

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HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION NO. 3281 OF 2007

Order:

The 4th respondent filed O.S No. 1 of 2005 against the petitioners in the Court of the District Judge, Nellore for the relief of specific performance of two agreements of sale dated 29.8.2001 and 26.12.2002. Since the agreements were not duly stamped, on a request made by the 4th respondent, the learned District Judge passed an order dated 6.10.2005 forwarding the documents to the Revenue Divisional Officer, Kavali, the 3rd respondent herein for impounding the documents under the provisions of the Indian Stamp Act. The 3rd respondent in turn issued proceedings dated 23.11.2005 impounding two documents by collecting the deficit stamp duty and one time penalty.

Petitioners challenge the impugned proceedings mainly on the ground that the 3rd respondent does not have jurisdiction to pass the same.

Sri P. Sridhar Reddy, learned counsel for the petitioners submits that under the Indian Stamp Act, for taking any steps under Sections 33,

38 and 40, the Collector alone is the competent authority whereas the 3rd respondent had exercised the jurisdiction in the present case. He places reliance upon a judgment of this Court in G. RAMESH vs. REVENUE DIVISIONAL FOFICER, NALGONDA DISTRICT & OTHERS ([1]).

The learned Government Pleader for Revenue on the other hand submits that being parties to the suit, the petitioners can certainly raise this objection before the trial Court.

The 3rd respondent passed the impugned order on a reference made to him by the learned District Judge, Nellore. The 4th respondent is the plaintiff and the petitioners are the defendants in O.S. No. 1 of 2005. But, for the order dated 6.10.2005 passed by the District Judge, there was no occasion or basis for the 3rd respondent to issue the impugned proceedings dated 23.11.2005.

If the petitioners are of the view that the matter ought not to have been referred to the 3rd respondent at all and the latter ought not to have passed the order under Section 40 or any other provision of the Act, they can certainly raise this objection before the trial Court. The 4th respondent would have an opportunity to put forward his own point of view and the trial court would be in a better position to examine the matter from the relevant facts and provisions of law.

Therefore, the writ petition is disposed of leaving it open to the petitioners to raise all objections as to the validity of the impugned order dated 23.11.2005 before the Court of the District Judge, Nellore, which, in turn shall examine the same after giving opportunity to the 4th respondent.

The writ petition is accordingly disposed of. No costs.

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L. NARASIMHA REDDY,J

Note:
Furnish c.c. by 5.3.2007
B/o

pnb

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[1] 2006(6) ALD 136